

STATEMENT OF THE CASE

Alfredo Gonzalez appeals his conviction for Resisting Law Enforcement, as a Class A misdemeanor, following a bench trial. He presents a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On May 1, 2007, John Flanagan, a tow truck driver, was attempting to tow away Gonzalez's car from an apartment complex parking lot when Gonzalez exited his apartment and confronted Flanagan. An argument ensued, and Gonzalez proceeded to unhook his car from the tow truck. Flanagan called police. Gonzalez was sitting in his car when officers arrived, and Officer John Reichle ordered Gonzalez to exit the car. When Gonzalez refused, Officer Reichle ran Gonzalez's name through the computer in his car and determined that there was an open warrant for Gonzalez's arrest. When Officer Reichle returned to Gonzalez's car, he told Gonzalez about the warrant and again ordered him to exit the car, but Gonzalez again refused to comply. At that point, Officer Reichle and another officer attempted to forcibly remove Gonzalez from his car. During the struggle, one of the officers was able to place one handcuff on one of Gonzalez's wrists, but Gonzalez was moving around too much to get the other handcuff in place. Eventually, the officers subdued Gonzalez with a taser.

The State charged Gonzalez with resisting law enforcement, as a Class A misdemeanor. The trial court found him guilty as charged and entered judgment and sentence accordingly. This appeal ensued.

DISCUSSION AND DECISION

Gonzalez contends that the State did not present sufficient evidence to support his conviction. When reviewing the claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To prove resisting law enforcement, as a Class A misdemeanor, the State was required to prove that Gonzalez knowingly and forcibly resisted, obstructed, or interfered with the police officers while they were lawfully engaged in the execution of their duties as law enforcement officers. Ind. Code § 35-44-3-3. Gonzalez's sole contention on appeal is that the evidence is insufficient to show that he knowingly or forcibly resisted, obstructed, or interfered with the officers. We cannot agree.

In support of his contention, Gonzalez cites to this court's opinion in Johnson v. State, 833 N.E.2d 516 (Ind. Ct. App. 2005). In Johnson, we observed:

Our Supreme Court has interpreted this statute to require that the force element applies to resisting, obstructing, or interfering with a law enforcement officer. Spangler v. State, 607 N.E.2d 720, 723 (Ind. 1993). The Court then held that "one 'forcibly resists' law enforcement when strong, powerful, violent means are used to evade a law enforcement official's rightful exercise of his or her duties." Id.

Id. at 517. Gonzalez maintains that he did not use "strong, powerful, violent means" against the police officers.

But the State directs us to Guthrie v. State, 720 N.E.2d 7, 9 (Ind. Ct. App. 1999), trans. denied, where this Court held that a resisting law enforcement conviction can be supported by evidence that a defendant resists in some meaningful way that extends beyond mere passive resistance. In Guthrie, the defendant refused to exit the jail wagon, and officers forcibly removed him and placed him on the ground. The defendant then refused to stand up, and officers picked him up. When the defendant refused to walk, leaning his body back and stiffening his legs, officers carried him into the police station. On appeal, we held that that evidence was sufficient to prove that the defendant forcibly resisted the police officers. Id.

Likewise, here, after Gonzalez refused to exit his car, officers were compelled to forcibly remove him, and they attempted to place handcuffs on his wrists. Gonzalez refused to be handcuffed, and he pulled away from the officers. With one handcuff on one wrist, Gonzalez was “flinging around” the other handcuff, and the officers feared getting hit with it. Transcript at 31. Gonzalez’s contentions on appeal amount to a request that we reweigh the evidence, which we will not do. We hold that the evidence is sufficient to support Gonzalez’s conviction.

Affirmed.

BAKER, C.J., and KIRSCH, J., concur.